MEMORANDUM

To: Mr. J. F. Friedman
From: Henry B. Stauffer, NSA 3624

Date: 9 Dec. 55


As we discussed on December 7, 1955, I am enclosing six copies of Department of Defense Directive No. 2000.3, dated 15 April 1954. Each copy is accompanied by an Inclosure 1, and a single copy of Inclosure 2 (with which I think you are familiar) is included.

I am forwarding also a single copy of a letter from the Comptroller General of the United States to the Secretary of the Army, dated 24 March 1949, relating to the claim of one Harry A. Knox for the infringement by the United Kingdom of certain patents owned by him covering inventions made by him while a Government employee.

Approved for Release by NSA on 05-21-2014 pursuant to E.O. 13526.
The Honorable,

The Secretary of the Army.

By your letter of December 30, 1945, with enclosure, from the Assistant Secretary of the Army, referring for consideration the proposed settlement by the Department of the Army of a claim in favor of Harry A. Knox for the infringement of certain patents owned by him relating to the construction of military tanks and assemblies therefor.

It appears that, prior to January 1, 1943, the United Kingdom entered into certain contracts with United States concerns for the construction of a number of military tanks and assemblies. In these contracts, the United Kingdom agreed to indemnify the manufacturers against any and all claims for patent infringements incident to such manufacture. The tanks and assemblies covered by the contracts were constructed for and delivered to the United Kingdom until the time when the contracts were taken over by the United States pursuant to "take-over" agreements entered into as a result of the determination, under lend-lease arrangements, that the United States would administer all war construction in this country and that the United Kingdom would administer all war construction within its borders, the material produced to be pooled and utilized to the best advantage in the common war effort.
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nor shall the limitations set forth in Articles 1, 2, 3, 4, and 5 of this Agreement apply in respect of any use of infringement occurring during the continuance in effect of a license agreement or other contractual obligation in existence as of January 1, 1942 between a national of one government on the one hand and a national of the other government on the other hand covering such patent rights, inventions, and designs, or processes, provided that if such license agreement or other contractual obligation is nonexclusive, such patent rights, inventions, and designs, or processes may be requested by either government under this Agreement in respect of their use or infringement by nationals of the requesting government other than the national holding such license agreement or other contractual obligation and the limitations set forth shall, if otherwise applicable, apply in accordance with their terms, apply to the same extent.

If the phrase "other contractual obligation" in this Article is construed to embrace a contractual obligation to indemnify against claims for infringement, it would seem that payment to be made under the proposed license clause contract would be improper, since the United Kingdom's contracts to indemnify the manufacturers were in existence on January 1, 1942, and continued in existence thereafter. However, it is urged in support of Mr. Know's claim that the phrase "other contractual obligation" was intended to refer only to other contractual obligations in the nature of licenses, such as could be entered into only between parties capable of giving and receiving rights similar to those transferred by license agreements.

It is urged also that the language of Article 5(A) of the Interim Interchange Agreement, quoted above, as clearly covers the instant case as to make it seem impossible that the drafters of the Agreement could have intended to confine the effect of the law to those cases of writing conflicting laws into Articles . The final report
any objection to the commission of the unlawful lenient and

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the payment of the consideration covered thereby.

The contract and voucher are returned herewith.

Respectfully,

(Signed) Lincoln G. Smith
Superintendent
of the United States.

Enclosure.